

BaltimoreCounty_FAV_HB0031.pdf

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Position: FAV



JOHN A. OLSZEWSKI, JR.
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BILL NO.: HB 31

TITLE: Courts - Surcharges and Payment to Rental Assistance Programs

SPONSOR: Delegate Clippinger

COMMITTEE: Judicial Proceedings

POSITION: **SUPPORT**

DATE: March 30, 2021

Baltimore County **SUPPORTS** House Bill 31 – Courts - Surcharges and Payment to Rental Assistance Programs. This legislation increases certain surcharges on civil eviction procedures and requires the proceeds be divided equally between the Maryland Legal Services Corporation Fund and rental assistance programs throughout the State.

The unprecedented job loss due to the COVID-19 pandemic has made housing an increasingly critical issue that requires immediate attention. At the start of the pandemic, County Executive Olszewski temporarily halted all evictions within Baltimore County as an emergency measure. This ensured that residents facing difficult circumstances would be protected from becoming homeless in the midst of a pandemic. When Maryland emerges from this public health crisis, housing affordability will continue to be a pressing concern for vulnerable communities, and deadlines for rent may come before employment opportunities.

Rental assistance programs have been invaluable resources during these trying times. These programs continue to give essential resources and advice to struggling families and individuals trying to seek financial stability. Surcharges on civil eviction procedures have insignificant effects on those that bring them, yet the evictions themselves have life-altering consequences for the tenants at risk. HB 31 sets up a funding mechanism using this very process which subsidizes programs to help those in need of rental assistance and legal representation.

Accordingly, Baltimore County requests a **FAVORABLE** report on HB 31. For more information, please contact Chuck Conner, Director of Government Affairs, at cconner@baltimorecountymd.gov.

HB 31 FAV House of Ruth.pdf

Uploaded by: Lennig, Dorothy

Position: FAV



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TESTIMONY IN SUPPORT OF HOUSE BILL 31
March 30, 2021
DOROTHY J. LENNIG, LEGAL CLINIC DIRECTOR

The House of Ruth is a non-profit organization providing shelter, counseling, and legal services to victims of domestic violence throughout the State of Maryland. House Bill 31 allows for an increase in court filing fees to avert further reductions in funding to Maryland Legal Services Corporation (MLSC), the organization that makes grants for the provision of civil legal services to low-income Marylanders. In addition, HB 31 creates a Rental Assistance Special Fund that provides funding to nonprofit organizations that work in the area of rent assistance to pay the back rent for individuals facing potential residential rental property eviction. **We strongly urge the Senate Judicial Proceedings Committee to favorably report on House Bill 31.**

The House of Ruth Domestic Violence Legal Clinic (the Clinic) receives a significant portion of its funding from MLSC. With this support, the Clinic serves low-income victims of domestic violence throughout the state. Clinic attorneys provide representation in protective order hearings and divorce and custody cases; legal advocates provide information, lethality assessment, safety planning, and referrals to victims who call or visit our walk-in clinics at court houses in Baltimore City and Prince George's, Montgomery, and Baltimore Counties. Civil legal representation is critical to victims of domestic violence and their children. A 2016 study demonstrated that domestic violence victims who received civil legal representation experienced a notable reduction in physical violence over a 24-month period following the representation, as well as an increase in their psychological well-being and economic self-sufficiency.¹ Not only does civil legal representation work to prevent future domestic violence, but it also helps to mitigate the damage inflicted by that violence. Victims who were represented by legal aid attorneys trained in domestic violence more frequently received custody and visitation orders that protected themselves and their children, as compared to cases in which victims were represented by private attorneys or victims who represented

¹ Hartley, C. C., & Renner, L. M. (2016). *The Longer-Term Influence of Civil Legal Services on Battered Women*. National Institutes of Justice, U.S. Dept. of Justice. Available at: <https://www.ncjrs.gov/pdffiles1/nij/grants/249879.pdf>.

themselves.² Civil legal services are a vital part of Maryland's safety net for men, women and children escaping domestic violence.

Since the onset of the Covid-19 pandemic, MLSC has experienced severe reductions in two of its major sources of funding. Historically, MLSC has relied in large part on the Interest on Lawyers Trust Accounts (IOLTA) as a source of its fund. During the last 11 months, the interest rates have been close to zero, resulting in little to no income for MLSC. In addition, MLSC relies on funds it receives from certain court filing fee surcharges. During the past 11 months, very few new courts cases were filed due to the court's pandemic-related limited operations. The proposed filing fee surcharge increase will avert further reductions to MLSC's funds and allow MLSC and the legal services agencies it supports to continue to provide vitally needed services.

MLSC funding enables the House of Ruth to help many victims of domestic abuse. During FY 2020, the House of Ruth used MLSC and other funding to serve 3,229 victims. Without this support, low-income victims often would have no access to the legal services needed to help end the cycle of violence. The filing fee surcharge will allow MLSC to continue to provide crucial support for these important services.

The House of Ruth strongly urges the Senate Judicial Proceedings Committee to issue a favorable report on House Bill 31.

² Kernic, M. (2015). *Final Report of the "Impact of Legal Representation on Child Custody Decisions among Families with a History of Intimate Partner Violence Study."* U.S. Dept. of Justice, National Institute of Justice. Available at: <https://www.ncjrs.gov/pdffiles1/nij/grants/248886.pdf>.

HB31_JPR_MNADV_FAV.pdf

Uploaded by: Shapiro, Melanie

Position: FAV



BILL NO: House Bill 31
TITLE: Courts - Surcharges and Payment to Special Funds - Prohibited Lease Provisions
COMMITTEE: Judicial Proceedings
HEARING DATE: March 30, 2021
POSITION: **SUPPORT**

The Maryland Network Against Domestic Violence (MNADV) is the state domestic violence coalition that brings together victim service providers, allied professionals, and concerned individuals for the common purpose of reducing intimate partner and family violence and its harmful effects on our citizens. **MNADV urges the Senate Judicial Proceedings Committee to issue a favorable report on HB 31.**

House Bill 31 allows for an increase in court filing fees to prevent further reductions in funding to Maryland Legal Services Corporation (MLSC), the organization that makes grants for the provision of civil legal services to low-income Marylanders. This bill also direct funds to rental assistance programs in Maryland. Many of the service providers that comprise MNADV, provide critical legal services to victims of domestic violence. These victim service providers rely on MLSC funding to offer legal representation for domestic violence victims. Representation is critical in ensuring victim's safety with one study finding that 83 percent of victims represented by an attorney successfully obtained a protective order, as compared to just 32 percent of victims without an attorney.¹

MLSC funding has been significantly impaired by the COVID-19 pandemic while the needs of victims of domestic violence have increased. The filing surcharge fee in HB 31 will help avoid a further reduction in MLSC funding and allow MLSC and the legal service agencies that it supports to continue to provide critical legal services. These legal service agencies include many victim service providers for survivors of domestic violence who provide critical representation including assisting victims in obtaining protective orders against their abusers.

For the above stated reasons, the **Maryland Network Against Domestic Violence urges a favorable report on HB 31.**

¹ Jane Murphy, *Engaging with the State: The Growing Reliance on Lawyers and Judges to Protect Battered Women*, 11 Am. U. J. Gender Soc. Pol'y & L. 499, 511-12 (2003).

For further information contact Melanie Shapiro • Public Policy Director • 301-852-3930 • mshapiro@mnadv.org

HB 31 - Cross Over - Courts - Surcharges and Payme

Uploaded by: Siri, Michelle

Position: FAV

BILL NO: House Bill 31 – CROSS OVER
TITLE: Civil Cases - Surcharges
COMMITTEE: Senate Judicial Proceedings
HEARING DATE: March 30, 2021
POSITION: **Favorable**

The Women's Law Center of Maryland (WLC) is a statewide, non-profit legal services provider, dedicated to ensuring the physical safety, the economic security, and the bodily autonomy of women across Maryland. Our direct legal services include representing survivors of domestic violence in protective order hearings, family law matters, and immigration proceedings. The WLC advances its work not only through direct legal representation, but also through statewide educational hotlines and advocacy.

The WLS urges a favorable report on House Bill 31 with a small amendment. HB 31 allows for a modest increase in court filing fees that would be distributed equally to the Maryland Legal Services Corporation (MLSC) and rental assistance programs in the State. The WLC fully supports the surcharge.

The surcharge increase is necessary to avert further reductions in funding to the MLSC, which provides essential funding for the provision of civil legal services to low-income Marylanders after the Maryland General Assembly created it in 1982 to be the state's primary funder of civil legal aid. This increase would allow MLSC to continue its important work, while still keeping the average costs for filing fees in Maryland below the national average.

The WLC receives a significant portion of its income from MLSC. Without this funding, we would be unable to answer the calls of nearly 5,000 Marylanders per year on our Family Law and Employment Law Hotlines. Without the funding our Legal Director and other staff would be unable to support the direct representation of survivors of domestic violence as they seek protective orders and divorces against their abusers, or seek to obtain custody of their children or legal status in this country. This is the work we do, free of charge, every day for survivors of domestic violence and it would not be possible without the financial support of MLSC.

Representation in protective order proceedings, as well as divorce and custody hearings, is a significant component of addressing the needs of victims and leads to a greater likelihood of positive outcomes.¹ Studies have found that having an attorney's assistance with legal matters not only helps victims of intimate partner violence achieve greater economic self-sufficiency, but also makes leaving their violent relationships more feasible. In other words, access to legal services has a greater impact on preventing a woman from experiencing continued abuse than emergency

¹ Farmer, Amy and Tiefenthaler, Jill (2003). *Explaining the Recent Decline in Domestic Violence*, 21CONTEMP. EC. POL'Y 158, 13 and *Longitudinal Patterns of Intimate Partner Violence, Risk, Well-Being, and Employment: Preliminary Findings* (with Dutton, Goodman, and Lennig) National Institute of Judicial Proceedings. (2001).

services such as hotlines, shelters, and counseling programs². This is because access to affordable legal services is a determining factor in whether a woman even chooses to file a petition for a protective order—as well as whether her petition is successful³. Most victims lack a basic understanding of the legal system and are therefore unable to competently represent themselves in protective order hearings. Victims may not fully understand all the available remedies and the positive impact of obtaining them. Access to legal services is essential in keeping domestic violence safe, housed, employed, and independent – regardless of their ability to pay or their country of birth. Legal representation at protective order hearings help create economic, housing, and job security for victims and their families.

It is vitally important to secure additional funding for MLSC. MLSC's two major funding sources – the Interest on Lawyer Trust Accounts (IOLTA) program and these surcharges – were significantly reduced by the COVID-19 pandemic due to near zero interest rates and a dramatic decrease in court filings. MLSC currently projects fiscal year 2022 revenue to come in at least \$6 million lower than pre- pandemic levels. The Federal Reserve has indicated they will keep interest rates near zero for several more years, meaning that MLSC cannot rely on IOLTA as a significant source of funding for civil legal aid into the foreseeable future. This in turn creates uncertainty and instability for organizations such as the WLC; without the funding survivors of domestic violence would be forced to face their abusers alone without access to legal services they so desperately need.

For these reasons, the WLC supports HB31 and urges a favorable report.

The Women's Law Center of Maryland is a private, non-profit, legal services organization that serves as a leading voice for justice and fairness for women. It advocates for the rights of women through legal assistance to individuals and strategic initiatives to achieve systemic change, working to ensure physical safety, economic security, and bodily autonomy for women in Maryland.

² Supporting Survivors, The Economic Benefits of Providing Legal Assistance to Survivors of Domestic Violence (Rosenberg, Jennifer S., June 2015). <http://policyintegrity.org/documents/SupportingSurvivors.pdf>, last viewed June 20, 2019.

³ *Id.*

HB 31 - Cross Over - Courts - Surcharges and Payme

Uploaded by: Siri, Michelle

Position: FAV



The Delivery of Legal Services Section Council

BILL NO: House Bill 31 – Cross Over
TITLE: Civil Cases - Surcharges
COMMITTEE: Senate Judicial Proceedings
HEARING DATE: March 30, 2021
POSITION: **Favorable**

The Delivery of Legal Services Section (DLS) is a section of the Maryland State Bar Association formed to promote the fair administration of justice in the State of Maryland. The Section supports and encourages free or low cost legal services for people of limited means through legal services programs for the indigent, public interest legal organizations, *pro bono publico*, reduced fee, and other alternatives to traditional fee-for-service representation to provide access to the courts, and court alternatives for the resolution of disputes. The areas include legal practice and legal reform for the indigent and persons of modest means, for example, civil rights, consumer advocacy, civil and criminal legal services, and lawyer referral services. The Section Council is comprised of a mix of practicing attorneys, including those working for civil legal aid organizations, private practitioners, and government attorneys, who all share a common goal: increasing access to justice.

The DLS urges a favorable report on House Bill 31 with a small amendment. HB 31 allows for a modest increase in court filing fees that would be distributed equally to the Maryland Legal Services Corporation (MLSC) and rental assistance programs in the State. The DLS fully supports the surcharge.

The surcharge increase is necessary to avert further reductions in funding to MLSC, which provides essential funding for the provision of civil legal services to low-income Marylanders after the Maryland General Assembly created it in 1982 to be the state's primary funder of civil legal aid. This increase would allow MLSC to continue its important work, while still keeping the average costs for filing fees in Maryland below the national average. MLSC's two major funding sources – the Interest on Lawyer Trust Accounts (IOLTA) program and these surcharges – were significantly reduced by the COVID-19 pandemic due to near zero interest rates and a dramatic decrease in court filings. MLSC currently projects fiscal year 2022 revenue to come in at least \$6 million lower than pre-pandemic levels. The Federal Reserve has indicated they will keep interest rates near zero for several more years, meaning that MLSC cannot rely on IOLTA as a significant source of funding for civil legal aid into the foreseeable future.

As funding for legal services has decreased, the demand for civil legal aid has grown as Marylanders deal with the effects of the pandemic. MLSC grantees help low-income Maryland residents with evictions, foreclosures, family law issues, consumer debt, access to benefits and more. Low-income clients served by MLSC grantees and other approved legal services providers receive an automatic filing fee waiver. Furthermore, because the General Assembly and the Courts have recognized the need for fee waivers for low-income individuals, it is important to also clarify that surcharges in summary ejectment cases should not be passed on to tenants.



The Delivery of Legal Services Section Council

It is vitally important to secure additional funding for MLSC. A decrease in funding for MLSC in turn creates uncertainty and instability for organizations providing these critical services; without the funding survivors of domestic violence would be forced to face their abusers alone, tenants who have lost their jobs due to the pandemic would be forced into eviction proceedings without understanding their legal rights, Marylanders entitled to government aid and benefits would have to navigate the complicated systems on their own, and many others would be left in a similar position – without access to legal counsel whilst facing the loss of fundamental rights to safety, housing, employment, and more.

For these reasons, the DLS supports HB31 and urges a favorable report.

Renters United MD_FWA_HB 31 in JPR.pdf

Uploaded by: Hill, Matt

Position: FWA

House Bill 31

Courts – Surcharges and Payment to Special Funds – Prohibited Lease Provisions



Before the Senate Judicial Proceedings Committee, Mar. 30, 2021

Position: FAVORABLE WITH AMENDMENTS

Renters United Maryland (RUM) is a statewide coalition of renters, organizers, and advocates for safe, stable housing. We stand on the principle that housing is a human right that is critical to an individual's quality of life, the health of families, and the prosperity of communities.

HB 31 raises the filing surcharge on actions for failure to pay rent and other civil actions. **The members of RUM listed below urge a favorable with amendments report on HB 31. However, if the bill is not amended to remove the fee pass-through to tenants, then Renters United Maryland opposes the bill.**

HB 31 was amended in the House adding a provision that allows the Court and/or Landlord to pass on the increased failure to pay rent surcharge to the tenant after "THE FIRST THREE SURCHARGES ASSESSED IN A YEAR" (page 4, line 4; page 5, line 14). Renters United Maryland strongly opposes this amendment and opposes the bill if this provision is not struck.

1. **By allowing a fee pass-through, tenants who are struggling the most will face higher fees to avoid eviction and more instability** – especially now in the middle of a pandemic when 200,000 families are facing eviction. This defeats the purpose of the bill which is to disincentivize serial eviction filing and increase housing stability.
2. **Tenants still have an incentive to pay the rent timely because landlords can still assess a 5% late fee and court filing fee** – just not this increased surcharge.
3. **If a landlord truly wants to evict a tenant who is chronically late, then after 3 judgments the landlord can foreclose on the right to redeem (e.g., no "pay and stay")**. There is no need for the landlord to continue seeking judgments and then passing on this increased surcharge.
4. **A provision that allows landlords to pass on the fee to tenants in some circumstances but not others would be almost impossible for tenants and their attorneys to enforce.**

Additionally, HB 31 as amended, does not provide the significant relief proposed in SB 530/HB729. HB 31 should be amended to reflect SB 530 in the following ways:

- A. **Raise the filing surcharge to \$120 to remove the State subsidy for the serial filing of eviction actions.** SB 530 proposed raising the surcharge to "no less than \$120," which would place Maryland closer to the average fee in other jurisdictions.
- B. **Extend the increased surcharge to all eviction actions, including tenant holding over or breach of lease evictions.** Without increasing the fee for all eviction actions – not just failure to pay rent – landlords will have an incentive to file other types of eviction cases, as they are doing so right now with an 85% increase in tenant-holding-over actions compared to last year in order to avoid pandemic protections.

C. Prohibit pass-through of the increased surcharge to the tenant as described above.

Finally, RUM supports an allocation of increased surcharge revenue to 1) MLSC and 2) the Right to Counsel Special Fund. Both MLSC and Renters United Maryland support dividing the revenue between MLSC and the Right to Counsel Special Fund. The right to counsel is a separate program from MLSC (although it will be administered by MLSC) and should have a separate allocation to accomplish its goals. Otherwise, the General Assembly would be passing a bill promising a right to counsel in eviction cases and will have missed a significant opportunity to pay for implementing the right. **RUM proposes amending HB 31 to remove the allocation of revenue to the Rental Assistance Special Fund.** The State of Maryland has received or will receive nearly \$800M in rental assistance funds related to COVID-19. The COVID relief bill signed by former President Trump in December 2020 allocated \$402M to Maryland for purposes of rental assistance, i.e., paying back due rent and utilities. These funds must be spent by Sept. 30, 2022. The recently signed American Recovery Plan Act provides an estimated \$318M to Maryland for rental assistance. These funds must be spent by Sept. 30, 2025. This is in addition to over \$50M in CARES Act funding allocated to Maryland and local jurisdictions that is being used now for rental assistance. [According to a needs' analysis by Stout, Risius Ross based on census data, this is more than sufficient to cover any need for rental assistance in the near term for MD.](#)

In summary, RUM supports the following amendments:

- A. Striking the provision that allows for the court/landlord to pass on the increased surcharge to tenants after three assessments** (page 4, line 4; page 5, lines 14-15);
- B. Increasing the eviction case surcharge to \$120;**
- C. Extending the surcharge to all eviction cases, not just failure to pay rent;**
- D. Revenue from the surcharge should be divided between 1) MLSC and 2) the Right to Counsel Special Fund.**

We have attached proposed amendments as well as our testimony on SB 530 that provides the substantive policy rationale for supporting this legislation.

The following members of Renters United Maryland urge the Committee to issue a report that is Favorable with Amendments

Public Justice Center	Homeless Persons Rep. Project	CASA De Maryland
Jews United for Justice	Santoni, Vocci & Ortega, LLC	Md. Ctr. on Economic Policy
Md. Legislative Coalition	Right to Housing Alliance	Our Revolution, MD
Md. Access to Justice Commission	Communities United	

<https://rentersunitedmaryland.org>

Contact: Matt Hill, (410) 625-9409 or at hillm@publicjustice.org

Renters United Maryland Amendments to HB 31 before Judicial Proceedings Committee

1. Strike page 3, line 14 through page 4, line 4 and insert the following:
“(c) (1) The filing fees and costs in a civil case are those prescribed by law subject to modification by law, rule, or administrative regulation. “(2) The Chief Judge of the District Court shall assess a surcharge that: (i) 1. May not be [more than: 1. \$8 per summary ejectment case] LESS THAN \$120 PER CASE FOR SUMMARY EJECTMENT, TENANT HOLDING OVER, OR BREACH OF LEASE THAT SEEKS A JUDGMENT FOR POSSESSION OF RESIDENTIAL PROPERTY AGAINST A RESIDENTIAL TENANT; and 2. MAY NOT BE MORE THAN \$18 per case for all other civil cases; [and] (ii) IF ASSESSED UNDER ITEM (I)1 OF THIS PARAGRAPH, SHALL BE ASSESSED AGAINST A LANDLORD AND MAY NOT BE AWARDED OR ASSIGNED BY THE DISTRICT COURT AS A FEE OR COST AGAINST A RESIDENTIAL TENANT; AND (III) Shall be deposited AS FOLLOWS: 1. \$60 INTO THE RIGHT TO COUNSEL IN EVICTIONS SPECIAL FUND; AND 2. \$60 into the Maryland Legal Services Corporation Fund established under § 11-402 of the Human Services Article. (3) (i) In addition to the surcharge assessed under paragraph (2) of this subsection, the Chief Judge of the District Court shall assess a surcharge that may not be more than \$10 per case for the following cases filed in Baltimore City: 1. Summary ejectment; 2. Tenant holding over; 3. Breach of lease; and 4. Warrant of restitution. (ii) The revenue generated from the surcharge on filing fees collected by the District Court in Baltimore City under subparagraph (i) of this paragraph shall be: 1. Remitted quarterly to the Baltimore City Director of Finance; and 2. Used to fund the enhancement of sheriff benefits and the increase in sheriff personnel to enhance the service of domestic violence orders. (4) In addition to the surcharge assessed under paragraphs (2) and (3) of this subsection, the Chief Judge of the District Court shall assess a surcharge that: (i) May not be more than: 1. \$3 per summary ejectment case; and 2. \$8 per case for all other civil cases; and (ii) Shall be deposited into the Circuit Court Real Property Records Improvement Fund established under § 13-602 of this article. (5) The Court of Appeals may provide by rule for waiver of prepayment of filing fees and other costs in cases of indigency.”
2. On page 5, strike lines 8-16 and insert the following:
“(d) A landlord may not use a lease or form of lease containing any provision that: (7) Is against public policy and void pursuant to § 8-105 of this title; [or] (8) Permits a landlord to commence an eviction proceeding or issue a notice to quit solely as retaliation against any tenant for planning, organizing, or joining a tenant organization with the purpose of negotiating collectively with the landlord; OR (9) PROVIDES THAT A TENANT IS RESPONSIBLE FOR, OR REQUIRES A TENANT TO AGREE TO BE RESPONSIBLE FOR, PAYMENT OF A FILING SURCHARGE ASSESSED AGAINST THE LANDLORD BY THE DISTRICT COURT UNDER § 7-301(C)(2)(I)1 OF THE COURTS ARTICLE.”
3. On page 6, strike lines 20 through page 7, line 33, and insert the following:
“(a) Whenever the tenant or tenants fail to pay the rent when due and payable, it shall be lawful for the landlord to have again and repossess the premises. (b) (1) Whenever any landlord shall desire to repossess any premises to which the landlord is entitled under the provisions of subsection (a) of this section, the landlord or the landlord’s duly qualified

agent or attorney shall file the landlord's written complaint under oath or affirmation, in the District Court of the county wherein the property is situated: (i) Describing in general terms the property sought to be repossessed; (ii) Setting forth the name of each tenant to whom the property is rented or any assignee or subtenant; (iii) Stating the amount of rent and any late fees due and unpaid, less the amount of any utility bills, fees, or security deposits paid by a tenant under § 7-309 of the Public Utilities Article; (iv) Requesting to repossess the premises and, if requested by the landlord, a judgment for the amount of rent due, costs, EXCLUDING ANY SURCHARGE ASSESSED AGAINST THE LANDLORD UNDER § 7-301(C)(2)(I)1 OF THE COURTS ARTICLE, and any late fees, less the amount of any utility bills, fees, or security deposits paid by a tenant under § 7-309 of the Public Utilities Article; (v) If applicable, stating that, to the best of the landlord's knowledge, the tenant is deceased, intestate, and without next of kin; and (vi) If the property to be repossessed is an affected property as defined in § 6-801 of the Environment Article, stating that the landlord has registered the affected property as required under § 6-811 of the Environment Article and renewed the registration as required under § 6-812 of the Environment Article and:

1. A. If the current tenant moved into the property on or after February 24, 1996, stating the inspection certificate number for the inspection conducted for the current tenancy as required under § 6-815(c) of the Environment Article; or B. On or after February 24, 2006, stating the inspection certificate number for the inspection conducted for the current tenancy as required under § 6-815(c), § 6-817(b), or § 6-819(f) of the Environment Article; or
2. Stating that the owner is unable to provide an inspection certificate number because:
 - A. The owner has requested that the tenant allow the owner 36 access to the property to perform the work required under Title 6, Subtitle 8 of the Environmental Article;
 - B. The owner has offered to relocate the tenant in order to allow the owner to perform work if the work will disturb the paint on the interior surfaces of the property and to pay the reasonable expenses the tenant would incur directly related to the relocation; and
 - C. The tenant has refused to allow access to the owner or refused to vacate the property in order for the owner to perform the required work."



Senate Bill 530
Landlord and Tenant – Eviction Actions – Filing Surcharge and
Prohibited Lease Provisions
 Before the Senate Judiciary Proceedings Committee, Feb. 26, 2021

Position: FAVORABLE

Renters United Maryland (RUM) is a statewide coalition of renters, organizers, and advocates for safe, stable housing. We stand on the principle that housing is a human right that is critical to an individual's quality of life, the health of families, and the prosperity of communities. The following members of Renters United Maryland urge a FAVORABLE report on SB 530:

Public Justice Center	Homeless Persons Rep. Project	CASA De Maryland
Mont. County Renters' Alliance	Santoni, Vocci & Ortega, LLC	Eva Rosen, Ph.D., Georgetown Univ.
Catholic Charities	Right to Housing Alliance	Ches. Physicians for Social Respons.
Strong Future Maryland	Health Care for the Homeless	Md. Access to Justice Commission
Md. Legislative Coalition	Communities United	Md. Ctr. on Economic Policy
Our Revolution, MD	Beyond the Boundaries	Civ. Advoc. Clinic, Univ. of Baltimore
Jews United for Justice		

Housing Court must be about Housing Justice – not the frontline of landlord debt collection. Today in Maryland the opposite is true. Over 660,000 eviction complaints are filed each year (pre-pandemic) with only approximately 730,000 renter households in the state.

Why? Because the General Assembly has given landlords cheap, easy access to a state-financed debt collection system called “rent court” to obtain rent/repossession. According to the Attorney General, other states charge an average of \$122 per filing for eviction; Maryland charges \$15 per filing – one of the lowest in the country. Service of process costs only \$5 for first-class mailing and posting to the leased property (“nail and mail” service). Most other states require landlords to send a pre-filing notice to the tenant: “Pay \$xx within 10 days or we will file a complaint.” Maryland does not.

One part of the solution: SB 530 removes the incentive for landlords to file for eviction each month on the 6th if the tenant is only one day late with the rent. [Eighty-four percent](#) of Baltimore City eviction actions are filed with only one month's rent due. Under SB 530, landlords will be incentivized to send a notice to the tenant first, reminding the tenant to pay. Landlords will have an incentive to work out a payment plan or even make repairs to the roof so that the tenant will pay the rent and landlords will not need to file a more expensive eviction action. Raising the surcharge was a key recommendation of the Attorney General's Task Force that produced [Confronting the COVID-19 Access to Justice Crisis](#).

SB 530 must retain strong protections against landlords passing on these surcharges to the very tenants who are desperately trying to avoid eviction. SB 530 does that by stating that the court may

<https://rentersunitedmaryland.org>

Contact: Matt Hill, (410) 625-9409 or at hillm@publicjustice.org

not pass on the surcharge to a tenant in an eviction action, and the landlord may not pass on the surcharge to a tenant in a lease provision. The bill also provides a remedy to the tenant if the landlord does so. There are a number of provisions in Maryland law that stop creditors from passing on certain fees to debtors including some mortgagee inspection, escrow, and servicing fees. *See, e.g.*, Md. Code Ann., Com. Law 12-121(b) and 12-109.2. The benefits of a uniquely swift summary ejectment/collection process accrue to the landlord, and so this additional surcharge should stay with the landlord.

Leaving the assessment of the surcharge to “judicial discretion” as some landlords have requested only reinforces the status quo in which tenants almost always pay. “Judicial discretion” is what happens now. In all default judgments or judgments in favor of the landlord, the Court may award court costs against the tenant right now, and the Court routinely does so. The assessment of costs, while already discretionary under Real. Prop. § 8-401, is virtually automatic in practice. Even if the case does not go to trial – perhaps because the tenant has a defense and the landlord voluntarily dismisses the case – the landlord still assesses the court costs against the tenant via a lease provision allowing them to do so. “Judicial discretion” means, in practice, that the tenant almost always pays.¹ It is unconscionable for landlords to pass on any additional fee or charge directly to tenants already most at risk of eviction.

Serial complaint filing also causes tenants to fall further and further in debt. Right now, landlords often file on the 6th of each month and add additional fees to the ledger thereby digging a deeper hole -- even if the tenant only owes \$300 or is one day behind. Under the current regime, even if the tenant is only one day late or only owes \$300, the landlord adds to the tenant’s ledger a 1) 5% late fee, 2) court filing fee of \$20 to \$30, and 3) often an “agent fee” (a fee to cover additional, purported administrative costs). These additional fees make it even hard for tenants to catch up. Landlords will still maintain their 5% late fee, but SB 530 will provide an incentive for the landlord to send a notice first, work out a payment plan, or fix a habitability issue before filing for eviction.

Serial complaint filing is a significant problem for tenants who want to defend their eviction cases. If a renter has a defense to the eviction complaint, they must take off work, find alternative childcare, rearrange medical appointments and show up at court often with as little as 2 days’ notice! Contrary to assertions by Md. Multi Housing Assoc., renters have many defenses in these cases. In one 2016 survey of tenants who were at court, 80% had a defense. [Sixty-eight percent of tenants had a defense based on uninhabitable conditions](#) in the property (but only 8% of tenants were able to successfully raise the defense *pro se*). Other non-habitability-related defenses include that the landlord lacks a license/lead registration; accounting errors in the ledger; seeking excessive fees and non-rent charges; and wrongfully trying to foreclose the right to redeem.

Landlords are quick to blame the tenant’s “right of redemption” in Maryland for the high filing rate, but a comparison to D.C. reveals that this is misleading. The right of redemption, also known as the

¹ There is one exception: In the approximately 2,600 cases (2,602 in FY 2019) involving rent escrow each year, if the court finds in favor of the tenant, the court will likely not award the landlord costs.

right to “pay and stay,” means that the tenant can pay off a rent judgment anytime before the eviction for three judgments in a 12-month period. On the 4th judgment (5th in Balt. City), the landlord can foreclose that right. *Maryland has an eviction complaint filing rate of 2.35 cases per cost-burdened renter household (2019 ACS & Judiciary data). D.C. has an eviction complaint filing rate of 0.54 cases per cost-burdened household (2018-29 DC Court & ACS data).* D.C. has a right to redeem just like Maryland. So why the difference in filing rate? D.C. reduces the easy access of landlords to filing and litigating by requiring a pre-filing notice and allocating almost \$5 million/year to representation for tenants. To further reduce the filing of eviction complaints, D.C. is considering raising the cost of filing to \$100. **D.C. has recognized that by removing the special access that landlords receive to an incredibly cheap, low-entry-barrier eviction process, the district can reduce serial filings and create a fairer system for all.**

The disparate impact of the eviction crisis on Black households cannot be overstated: [According to State DHCD 35.5% of Black renters in Maryland are facing eviction compared to 13.9% of White renters](#). The well-documented systemic and institutionalized racism in housing, income, wealth, and so many other markers of human thriving have been exacerbated by this pandemic. The question is whether the General Assembly will have the courage to act and address the nature of the eviction process driving the crisis and resulting disparate impact on Black and brown communities.

Nothing is more dehumanizing in our civil legal system than the current “cattle call” approach to failure-to-pay-rent eviction cases. Raising the filing surcharge is a critical component of reducing the number of eviction cases, funding a right to counsel in eviction cases, and restoring the court as a place of housing justice instead of a cheap, easy way for landlords to quickly collect alleged debts.

The RUM Members listed above urge the Committee to issue a FAVORABLE report on SB 530.

MLSC - MCASA - testimony - house in senate - 2021.

Uploaded by: Jordan, Lisae C

Position: FWA



Working to end sexual violence in Maryland

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Testimony Supporting House Bill 31 with Amendments **Lisae C. Jordan, Executive Director & Counsel** March 30, 2021

The Maryland Coalition Against Sexual Assault (MCASA) is a non-profit membership organization that includes the State's seventeen rape crisis centers, law enforcement, mental health and health care providers, attorneys, educators, survivors of sexual violence and other concerned individuals. MCASA includes the Sexual Assault Legal Institute (SALI), a statewide legal services provider for survivors of sexual assault. MCASA represents the unified voice and combined energy of all of its members working to eliminate sexual violence. We urge the Judicial Proceedings Committee to report favorably on House Bill 31 with amendments.

Legal Services Funding Crisis

House Bill 31 – Filing Fee Surcharge to Support Civil Legal Services and Provide Rental Assistance
HB31 would increase filing fees that support civil legal services for economically disadvantaged people in Maryland and help maintain Maryland's legal services safety net. This important legal services safety net has been critically injured by the COVID pandemic and is in jeopardy of failing if the legislature does not act. This bill would also generate support for Rental Assistance Programs in the State. MCASA supports amendments suggested by the Maryland Legal Services Corporation regarding allocation of funds.

MCASA's Sexual Assault Legal Institute (SALI) receives significant funding from the Maryland Legal Services Corporation. With this support, SALI serves low-income victims of sexual assault all over the State. SALI uses MLSC funding to support attorneys and advocates in cases including school & education issues, peace orders, protective orders (including for incest), U-visas to allow immigrant victims to stay in the US and assist with prosecution, privacy matters, and other matters arising from the sexual assault or abuse. MLSC funding is especially critical in child sexual abuse cases.

COVID is increasing the need for legal services.

Perpetrators are emboldened by the pandemic. They are using the pandemic to gain or renew access to victims, intimidate survivors into silence, and interfere with survivors' attempts to seek safety and justice. Sexual assault survivors are dealing with the "paradox of social distancing," increasing economic instability, homelessness, job loss, mental health needs, amplified trauma, and isolation. This crisis has led not only to an increase in the number of survivors seeking services, but to an increase in the number of services survivors seek.

At the **Sexual Assault Legal Institute**,

183 survivors were helped in December 2019

318 survivors were helped in December 2020

This increase is a result of the COVID pandemic.

Sexual assault and child sexual abuse can impact a wide array of legal issues.

Examples of MLSC-funded cases at SALI include the following (identifying information has been changed to protect privacy):

“Gina”, ten year old girl, was sexually assaulted by her step-father and step-uncle on separate occasions. Gina is autistic and has challenges communicating. Since the incidents she has had sleep disorders, shows signs of disassociation, and has begun therapy and counseling. Despite her disability, Gina was able to help prosecute and convict both perpetrators in Frederick County Circuit Court. Gina and her mother were in the U.S. without documentation. After the criminal case was completed they went to the local rape crisis center which referred Gina and her mother to SALI. A SALI attorney worked with the clinicians helping Gina and documented the abuse and its effects. The attorney then obtained law enforcement certification verifying that Gina and her mother helped prosecute a violent criminal. With this documentation as support, a petition for a U-visa was filed and granted. Now Gina and her mother are in America legally and continuing to work to heal from Gina’s sexual abuse.

“Jennifer” is a 12 year old girl who was fondled by her biological father while visiting him in Prince George's County. After she her mother about the abuse, the mother filed a Petition for a Protective Order and reported the abuse to the police. She was referred to SALI by both the local sexual assault program and through the written information police provide to all crime victims. A SALI advocate performed an intake and provided safety planning; the case was then assigned to an attorney. The SALI attorney advised Jennifer’s mother about her options and discussed how a civil protective order proceeding could impact the criminal case. The SALI attorney then provided representation in the protective order case, preparing three witnesses to testify: the victim, her mother, and a babysitter who was the first to hear about the abuse. Fortunately, the SALI attorney negotiated a consent order, so the child was spared having to testify. Keeping witnesses off the stand also helps protect the criminal case by reducing opportunities for impeachment. While the protective order was entered without a trial, it was strong: it ordered that the perpetrator stay away from the victim, granted the mother custody and provided for no visitation between the perpetrator and the victim. After the order was entered on the record, officers immediately arrested the perpetrator and he was detained pending his criminal trial.

“James”, a 7 year old boy in Anne Arundel County, lived in public housing with his family. One day a 13 year old boy who also lived in the housing project took James and another boy into the woods and sexually assaulted them. After telling his mother and the police what happened, James became afraid to leave the house. James’s mother, “Linda”, contacted SALI for assistance in having the family transferred to another public housing project.

SALI advocated with the Anne Arundel Housing Commission on the family’s behalf. The family was moved to the top of the waiting list and was placed in a new apartment as soon as one became available, instead of enduring a long waiting process (months instead of potentially 1-2 years). By the time the family was moved, the date to register new students in the new school district had passed. SALI again intervened by contacting the new school district and advocating that the family be able to register late

due to the extenuating circumstances. The children were soon successfully enrolled and a victim of child sexual abuse is able to continue his recovery.

Legal services like those described above are a vital part of Maryland's safety net for children, women, and men victimized by sexual violence. As our State searches for ways to respond to sex offenses, we must continue to remember individual victims and all of their needs, including their need for legal services.

MCASA member programs across Maryland use MLSC funding to help survivors of sexual assault, domestic violence, and child abuse. In addition to SALI, these programs include the Life Crisis Center on the Lower Eastern Shore, the Southern Maryland Center for Family Advocacy, Citizens Assisting and Sheltering the Abused in Washington County, Heartly House in Frederick, HopeWorks in Howard, Sexual Assault/Spousal Abuse Resource Center (SARC) in Harford County, and others. Together, these programs provide legal services for over 7500 victims and survivors annually.

Without the support of the Maryland Legal Services Corporation and the programs it funds, low-income victims and survivors would often have no access to the legal services needed to recover, heal, and have access to justice.

**The Maryland Coalition Against Sexual Assault and its
Sexual Assault Legal Institute
urges the Judicial Proceedings Committee to
report favorably on House Bill 31 with Amendments**

2021-03-30 (Crossover) HB 31 (Support with Amendme

Uploaded by: Jung, Roy

Position: FWA

BRIAN E. FROSH
Attorney General



ELIZABETH F. HARRIS
Chief Deputy Attorney General

CAROLYN QUATTROCKI
Deputy Attorney General

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL

FACSIMILE NO.

WRITER'S DIRECT DIAL NO.

410-576-6584

March 30, 2021

TO: The Honorable William C. Smith, Jr.
Chair, Judicial Proceedings Committee

FROM: The Office of the Attorney General

RE: (Crossover) House Bill 31 – Courts – Surcharges and Payment to Rental
Assistance Programs (**Support with Amendments**)

House Bill 31 increases the ceiling for general court civil case surcharges from \$55 to \$85 per case; and increases the ceiling for district court summary ejectment surcharges per case from \$8 to \$68. The bill permits landlords to pass along the filing surcharge to tenants after the third time they seek and obtain a judgment within a year. Finally, the bill establishes a Rental Assistance Special Fund. We support HB 31 with amendments.

First, we support the bill's increase in general civil filing surcharges in Section 7-202 of the Courts and Judicial Proceedings Article from \$55 to \$85, to provide more funding for the Maryland Legal Services Corporation. However, we believe the increase in summary ejectment proceeding surcharges under Section 7-301 should be considerably greater and should not establish a ceiling. Our view is reflected in the Attorney General's proposal in HB 729/SB 530¹ to increase the surcharge fee floor in all landlord-tenant actions to at least \$120. We agree with experts at Princeton's Eviction Lab that HB 31's cap on the summary ejectment surcharge "prevents adjustment of the filing fee in the future."² Instead, we urge the Committee to adopt a surcharge floor of \$120 that the Judiciary can increase in its discretion.

¹ See generally 2021 Leg., 422d. Sess. (Md. 2021).

² E-mail from Lillian Leung, Princeton Graduate Student Researcher, and Peter Hepburn, Ph.D., Statistician and Quantitative Analyst, to Hannibal Kemerer, Chief Counsel of Md. Off. of Att'y Gen. Legis. Affairs Unit (Mar. 17, 2021, 01:53 PM EDT) (on file with author).

Second, House Bill 31 allows landlords to pass on fees and surcharges to impoverished tenants.³ The Office of Attorney General, Renters United Maryland, the Public Justice Center, and other advocates are strongly opposed to transferring responsibility for the increased eviction filing surcharge to impoverished tenants. Moreover, experts at Eviction Lab note, “serial eviction filings [] increase[] housing burden . . . for tenants who are not ultimately displaced.”⁴ These tenants facing an eviction action are the most vulnerable to becoming homeless and should under no circumstances be subjected to an increased fee that must then be paid by the tenant to avoid eviction.

Lastly, we would urge adjustment of the bill’s funding allocation formula. For each filing, the bill provides \$30 in surcharge funds be allocated to a rental assistance special fund, \$30 into the right to counsel in evictions special fund, and \$8 to the Maryland Legal Services Corporation (“MLSC”) Fund. Maryland has received, however, hundreds of millions of dollars in federal rental assistance funds through both the CARES Act of 2020 and the American Rescue Act of 2021.⁵ Thus, we urge the Committee to shift HB 31’s allocation of the \$30 per filing from rental assistance to the right-to-counsel fund anticipated by SB 154.

For purposes of underscoring the importance of the underlying policy reflected in HB 31, as amended by our proposed amendments, we attach the Attorney General’s testimony in support of his filing fee bill (SB 530).

We urge the Committee to adopt the enclosed amendments and to favorably report HB 31, as amended.

Amendments:

1. Strike page 3, line 14 through page 4, line 4 and insert the following:
“(c) (1) The filing fees and costs in a civil case are those prescribed by law 12 subject to modification by law, rule, or administrative regulation. “(2) The Chief Judge of the District Court shall assess a surcharge that: (i) 1. May not be [more than: 1. \$8 per summary ejection case] LESS THAN \$120 PER CASE FOR SUMMARY EJECTION, TENANT HOLDING OVER, OR BREACH OF LEASE THAT SEEKS A JUDGMENT FOR POSSESSION OF RESIDENTIAL PROPERTY AGAINST A RESIDENTIAL TENANT; and 2. MAY NOT BE MORE THAN \$18 per case for all

³ See H.B. 31 § 7–301(c)(2)(ii), 2021 Leg., 422d. Sess. (Md. read Mar. 6, 2021) (providing that surcharges assessed in summary ejection proceedings “shall be assessed against a landlord and may not be awarded or assigned by the district court as a fee or cost against a residential tenant for the *first three surcharges assessed in a year.*”) (introduced at third reading) (small caps omitted) (emphasis added).

⁴ See *supra*, note 2.

⁵ See NAT’L LOW INCOME HOUS. COAL., *Estimated Allocations for Emergency Rental Assistance from Proposed Relief Bill*, <https://nlihc.org/sites/default/files/Estimated-Coronavirus-Relief-Fund-Allocations.pdf> (last visited Mar. 24, 2021) (Maryland is estimated to receive \$402,000,000 for rental assistance from CARES Act); NAT’L LOW INCOME HOUS. COAL., *American Rescue Plan Act*, https://nlihc.org/sites/default/files/COVID-Relief-Budget_Reconciliation.pdf (last visited Mar. 24, 2021) (bill provides \$27.4 billion for rental assistance); see also H.R. 748, 116th Cong. (2020) (enacted); H.R. 1319, 117th Cong. (2021).

other civil cases; [and] (ii) IF ASSESSED UNDER ITEM (I)1 OF THIS PARAGRAPH, SHALL BE ASSESSED AGAINST A LANDLORD AND MAY NOT BE AWARDED OR ASSIGNED BY THE DISTRICT COURT AS A FEE OR COST AGAINST A RESIDENTIAL TENANT; AND (III) Shall be deposited into the Maryland Legal Services Corporation Fund established under § 11–402 of the Human Services Article.

(3) (i) In addition to the surcharge assessed under paragraph (2) of this subsection, the Chief Judge of the District Court shall assess a surcharge that may not be more than \$10 per case for the following cases filed in Baltimore City: 1. Summary ejectment; 2. Tenant holding over; 3. Breach of lease; and 4. Warrant of restitution. (ii) The revenue generated from the surcharge on filing fees collected by the District Court in Baltimore City under subparagraph (i) of this paragraph shall be: 1. Remitted quarterly to the Baltimore City Director of Finance; and 2. Used to fund the enhancement of sheriff benefits and the increase in sheriff personnel to enhance the service of domestic violence orders. (4) In addition to the surcharge assessed under paragraphs (2) and (3) of this subsection, the Chief Judge of the District Court shall assess a surcharge that: (i) May not be more than: 1. \$3 per summary ejectment case; and 2. \$8 per case for all other civil cases; and (ii) Shall be deposited into the Circuit Court Real Property Records Improvement Fund established under § 13–602 of this article. (5) The Court of Appeals may provide by rule for waiver of prepayment of filing fees and other costs in cases of indigency.”

2. On page 5, strike lines 8-16 and insert the following:

“(d) A landlord may not use a lease or form of lease containing any provision that: (7) Is against public policy and void pursuant to § 8–105 of this title; [or] (8) Permits a landlord to commence an eviction proceeding or issue a notice to quit solely as retaliation against any tenant for planning, organizing, or joining a tenant organization with the purpose of negotiating collectively with the landlord; OR (9) PROVIDES THAT A TENANT IS RESPONSIBLE FOR, OR REQUIRES A TENANT TO AGREE TO BE RESPONSIBLE FOR, PAYMENT OF A FILING SURCHARGE ASSESSED AGAINST THE LANDLORD BY THE DISTRICT COURT UNDER § 7–301(C)(2)(I)1 OF THE COURTS ARTICLE.”
3. On page 6, strike lines 20 through page 7, line 33, and insert the following:

“(a) Whenever the tenant or tenants fail to pay the rent when due and payable, it shall be lawful for the landlord to have again and repossess the premises. (b) (1) Whenever any landlord shall desire to repossess any premises to which the landlord is entitled under the provisions of subsection (a) of this section, the landlord or the landlord’s duly qualified agent or attorney shall file the landlord’s written complaint under oath or affirmation, in the District Court of the county wherein the property is situated: (i) Describing in general terms the property sought to be repossessed; (ii) Setting forth the name of each tenant to whom the property is rented or any assignee or subtenant; (iii) Stating the amount of rent and any late fees due and unpaid, less the amount of any utility bills, fees, or security deposits paid by a tenant under § 7–309 of the Public Utilities Article; (iv) Requesting to repossess the premises and, if requested by the landlord, a judgment for the amount of rent due, costs, EXCLUDING ANY SURCHARGE ASSESSED AGAINST THE LANDLORD UNDER § 7–301(C)(2)(I)1 OF THE COURTS ARTICLE, and any late

fees, less the amount of any utility bills, fees, or security deposits paid by a tenant under § 7–309 of the Public Utilities Article; (v) If applicable, stating that, to the best of the landlord’s knowledge, the tenant is deceased, intestate, and without next of kin; and (vi) If the property to be repossessed is an affected property as defined in § 6–801 of the Environment Article, stating that the landlord has registered the affected property as required under § 6–811 of the Environment Article and renewed the registration as required under § 6–812 of the Environment Article and: 1. A. If the current tenant moved into the property on or after February 24, 1996, stating the inspection certificate number for the inspection conducted for the current tenancy as required under § 6–815(c) of the Environment Article; or B. On or after February 24, 2006, stating the inspection certificate number for the inspection conducted for the current tenancy as required under § 6–815(c), § 6–817(b), or § 6–819(f) of the Environment Article; or 2. Stating that the owner is unable to provide an inspection certificate number because: A. The owner has requested that the tenant allow the owner 36 access to the property to perform the work required under Title 6, Subtitle 8 of the Environmental Article; B. The owner has offered to relocate the tenant in order to allow the owner to perform work if the work will disturb the paint on the interior surfaces of the property and to pay the reasonable expenses the tenant would incur directly related to the relocation; and C. The tenant has refused to allow access to the owner or refused to vacate the property in order for the owner to perform the required work.”

cc: The Honorable Luke Clippinger, Chair, Judiciary Committee
Judicial Proceedings Committee Members

BRIAN E. FROSH
Attorney General



ELIZABETH F. HARRIS
Chief Deputy Attorney General

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Deputy Attorney General

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL

FACSIMILE NO.

WRITER'S DIRECT DIAL NO.

410-576-6584

February 26, 2021

TO: The Honorable William C. Smith, Jr.
Chair, Senate Judicial Proceedings Committee

FROM: Brian E. Frosh
Attorney General

RE: SB 530 – Landlord and Tenant – Eviction Actions – Filing Surcharge and Prohibited
Lease Provisions – **Support**

Chairman Smith, Vice Chair Waldstreicher, and distinguished Members of the Judicial Proceedings Committee, thank you for the opportunity to testify in support of SB 530. Like a number of other bills this Committee has considered, SB 530 is a recommendation of our COVID-19 Access to Justice Task Force.¹

This bill would increase Maryland's eviction filing fee from \$15 to the approximate national average of \$120. The increased revenues would serve as a stable funding stream for the Maryland Legal Services Corporation.

Many Maryland families were facing housing instability long before the pandemic. In 2019, more than 660,000 evictions were filed in Maryland district courts.² And as with the health outcomes of COVID-19, communities of color are facing the greatest hardships. In Baltimore City, for example, the number of eviction removals of Black households in 2018 and 2019 was three times higher than those for white households.³ The pandemic further

¹ See generally MD. ATT'Y GEN. BRIAN E. FROSH'S COVID-19 ACCESS TO JUST. TASK FORCE, CONFRONTING THE COVID-19 ACCESS TO JUSTICE CRISIS (Jan. 2021),

https://www.marylandattorneygeneral.gov/A2JC%20Documents1/AG_Covid_A2J_TF_Report.pdf.

² See Bennett Leckrone, *Chief Judge: Eviction Filings Face Court Backlog*, MD. MATTERS (Sep. 9, 2020), <https://www.marylandmatters.org/2020/09/09/chief-judge-eviction-filings-face-court-backlog/>.

³ Matt Hill et al., *Reports Show the Effectiveness of Providing A Right to Counsel to Challenge Baltimore's High Rate of Evictions and Its Disparate Racial and Gender Impact*, PUB. JUST. CTR. (May 18, 2020) <https://www.publicjustice.org/en/news/dual-reports-show-the-effectiveness-of-providing-a-right-to-counsel-to-challenge-baltimores-high-rate-of-evictions-and-its-disparate-racial-and-gender-impact/>.

exacerbated these challenges, with more than 200,000 Marylanders estimated to face evictions once court proceedings resume and state and federal moratoria and defenses are lifted.⁴

The landlord's cost of filing is \$15, one of the lowest nationwide.⁵ Some states impose fees over \$300. These low filing fees cause landlords to engage in a practice called "serial eviction filings."⁶ Over 660,000 eviction cases are filed each year in Maryland.⁷ The filing rate in some counties is over 100%, meaning more eviction actions are brought than there are homes for rent.⁸ Baltimore City has 125,000 rental units, but roughly 140,000 eviction cases per year.⁹ About 6,500 result in removal.¹⁰ Why the discrepancy, and what happens to all the other cases? 84 percent of Baltimore City eviction actions are filed with only one month's rent due.¹¹ Worse, many landlords file as soon as tenants are a few days late. This practice has made courts "more like an extension of the residential rental business than an impartial arbitrator between landlords and tenants."¹²

Maryland's low barriers for filing eviction actions make it an outlier. Eviction filing rates in neighboring states range from 5.3% in Pennsylvania¹³ to 16.9% in Delaware.¹⁴ Rates in

⁴ See Angela Roberts, *Longtime Baltimore neighborhood leader among thousands of Marylanders facing eviction amid the pandemic*, BALT. SUN (Dec. 23, 2020), <https://www.baltimoresun.com/coronavirus/bs-md-eviction-coronavirus-20201218-7vdhom3ipfgyjece7e24adifay-story.html>.

⁵ Brian Frosh, *Attorney General: Maryland Eviction Process 'Unfair to Tenants' | Commentary*, BALT. SUN (Dec. 11, 2020), <https://www.baltimoresun.com/opinion/op-ed/bs-ed-op-1213-frosh-serial-evictions-20201211-nnlu6zmiqjgc7dyohhvqx5k3cu-story.html>.

⁶ See generally Lillian Leung et al., *Serial Eviction Filing: Civil Courts, Property Management, and the Threat of Displacement*, SOCIAL FORCES, Sep. 11, 2020, at 1, <https://academic.oup.com/sf/advance-article-pdf/doi/10.1093/sf/soaa089/33732959/soaa089.pdf> ("Serial eviction filings occur when a property manager files to evict the same household repeatedly from the same address.").

⁷ See Leckrone, *supra* note 2.

⁸ Md. Eviction Filing Rate Interactive Map, Eviction Lab, <https://evictionlab.org/map/#/2016?geography=counties&bounds=-84.401,36.16,-71.463,41.132&type=efr&locations=24,-77.222,39.273> (last visited Feb. 15, 2021).

⁹ STOUT RISIUS ROSS, *THE ECONOMIC IMPACT OF AN EVICTION RIGHT TO COUNSEL IN BALTIMORE CITY 19* (May 18, 2020), https://bmorerentersunited.org/wp-content/uploads/2020/05/Baltimore-RTC-Report_FINAL_5.8.2020.pdf.

¹⁰ See *id.*

¹¹ *Id.*, at 23.

¹² Leung et al., *supra* note 6, at 23.

¹³ Pa. Eviction Filing Rate Interactive Map, Eviction Lab, <https://evictionlab.org/map/#/2016?geography=states&bounds=-81.727,39.553,-73.482,42.43&type=efr&locations=42,-77.799,40.874> (last visited Feb. 15, 2021).

¹⁴ Del. Eviction Filing Rate Interactive Map, Eviction Lab, <https://evictionlab.org/map/#/2016?geography=states&bounds=-90.784,35.387,-66.895,43.876&type=efr&locations=10,-75.42,38.821> (last visited Feb. 15, 2021).

New Jersey¹⁵, the District of Columbia¹⁶, and Virginia¹⁷ range from 12.5% to 15.7%. **Maryland's rate in excess of 80% dwarfs them all.**¹⁸

Forced displacement disrupts lives in profound and irrevocable ways. Its harms fall disproportionately on those least able to weather them.¹⁹ As one writer captures the impact of eviction, “without stable shelter, everything else falls apart.”²⁰ We must do more to help Maryland families keep things together.

For all the foregoing reasons, I urge the Committee to favorably report Senate Bill 530.

cc: Members of the Judicial Proceedings Committee

¹⁵ N.J. Eviction Filing Rate Interactive Map, Eviction Lab, <https://evictionlab.org/map/#/2016?geography=states&bounds=-90.784,35.387,-66.895,43.876&type=efr&locations=10,-75.42,38.821%2B34,-74.728,39.776> (last visited Feb. 15, 2021).

¹⁶ D.C. Eviction Filing Rate Interactive Map, Eviction Lab, <https://evictionlab.org/map/#/2016?geography=states&bounds=-78.346,38.465,-75.776,39.389&type=efr&locations=11,-77.016,38.905> (last visited Feb. 15, 2021).

¹⁷ Va. Eviction Filing Rate Interactive Map, Eviction Lab, <https://evictionlab.org/map/#/2016?geography=counties&bounds=-79.053,38.235,-74.946,39.711&type=efr&locations=51,-77.893,38.582> (last visited Feb. 15, 2021).

¹⁸ Compare Md. Eviction Filing Rate Interactive Map, *supra* note 12 (finding Maryland's eviction filing rate exceeds 100%) with Pa. Eviction Filing Rate Interactive Map, *supra* note 17 (finding Pennsylvania's eviction filing rate is 5.3%), Del. Eviction Filing Rate Interactive Map, *supra* note 18 (finding Delaware's eviction filing rate is 16.9%), N.J. Eviction Filing Rate Interactive Map, *supra* note 19 (finding New Jersey's eviction filing rate is 12.05%), D.C. Eviction Filing Rate Interactive Map, *supra* note 20 (finding District of Columbia's eviction filing rate is 15.67%), and Va. Eviction Filing Rate Interactive Map, *supra* note 20 (finding Virginia's eviction filing rate is 14.48%).

¹⁹ See HUNTER URB. POL'Y & PLAN., NEXT IN LINE: THE HUMAN COST OF THE EVICTION CRISIS 19 (2020), http://www.hunterurban.org/wp-content/uploads/2020/10/Studio-Spring-2020_Next-In-Line_The-Human-Cost-of-the-Eviction-Crisis.pdf.

²⁰ Interview, *Eviction: Not Just a Condition, but a Cause of Poverty*, U.S. CATH. (Feb. 13, 2018), <https://uscatholic.org/articles/201802/eviction-not-just-a-condition-but-a-cause-of-poverty/>.

HB 31_Surch and Proh Lease Prov_MSBA_FWA_SenJPR_Ma

Uploaded by: Montgomery, Richard

Position: FWA

To: Members of the Senate Judicial Proceedings Committee

From: Richard A. Montgomery III, Director of Legislative Relations
Maryland State Bar Association

Date: March 30, 2021

Subject: **House Bill 31 - Courts - Surcharges and Payment to Special Funds - Prohibited Lease Provisions**

Position: **Support with Amendments**

The **Maryland State Bar Association (MSBA) Supports House Bill 31 - Courts - Surcharges and Payment to Special Funds - Prohibited Lease Provisions, with one (1) amendment.** Since its creation by the General Assembly in 1982, the Maryland Legal Services Corporation (MLSC) has been funded largely by a patchwork of funding sources, including Interest on Lawyers Trust Accounts (IOLTA), certain filing fee surcharges, and an annual disbursement from the State of Maryland Abandoned Property Fund.

The MLSC aids Marylanders from every corner of the State by distributing funds through its grantees throughout Maryland. Those grantees operate the service programs that offer civil legal aid to qualified low-income Marylanders. The **MLSC is the largest provider of civil legal aid in Maryland.** It currently provides funding to 36 nonprofit grantees throughout Maryland to ensure that eligible clients in all areas of the State have access to legal assistance. Nevertheless, **80% of Marylanders who need help with a civil legal problem do not receive the legal help they need in times of crisis.** That unfortunate fact contributes to the destabilization of at-risk Maryland families, and communities.

The MSBA strongly believes that civil legal aid is a prudent investment in families and communities – all across Maryland. The MLSC reports that funding of civil legal services to low-income Marylanders provides a \$6 return on every dollar invested. Further, the MSBA believes that programs such as those funded by MLSC ensure access to justice for all Marylanders. Even prior to the COVID-19 pandemic, the demand for civil legal services in Maryland was far outpacing available funding to provide such services. The current public health emergency has decimated all MLSC funding streams. The MSBA believes that

the current MLSC fiscal condition represents an ominous danger to Maryland's overall well-being.

While the MSBA is genuinely mindful of fees related to access to Maryland's courts, we would point out that, in the aggregate, court filing fees in Maryland are significantly lower than those of most states in the nation. for that reason, that we regard the surcharge increases proposed in HB31 as a wise investment in helping Maryland families navigate the uncertain economic conditions ahead.

As to the House amendments to HB 31 pertaining to filing fee surcharge proceeds being directed to the Right to Counsel in Evictions Special Fund, the MSBA is supportive of that amendment. The MSBA has been supportive of the Right to Counsel in Evictions provisions that this Committee has seen previously in SB 154, which was introduced by Senator Hettleman (SB 154 has a cross-file, which is HB 18, which was passed by the House of Delegates on March 19, 2021).

Amendment

The one amendment that the MSBA would urge the Committee to adopt would be to strike the provisions which would statutorily prohibit a court or the landlord from passing along a surcharge on to a tenant. (the provision, as amended by the House appears on page 4, lines 1 through 4 of the bill). While we believe that in certain cases a court would reject passing along the surcharge to a tenant, **we do not believe that a court should be prohibited, by statute**, from assessing a surcharge to the tenant. The MSBA stance on this concept would apply to any other bill considered by the General Assembly.

In summation, **the MSBA SUPPORTS House Bill 31, with an amendment, and urges a Favorable with Amendments Committee Report.** Should you have any questions, or need additional information, I may be reached at richard@msba.org, or (410) 269-6464.

hB 31 2.pdf

Uploaded by: Castelli, William

Position: UNF



House Bill 31 – Courts – Surcharges and Payment to Rental Assistance Programs

Position: Oppose

Maryland REALTORS® opposes HB 31 which seeks to increase the surcharge for certain court actions and significantly limit recovery of the court fees.

REALTORS® often manage property for owners who lease their single-family property for many reasons. Sometimes it is because the owner is seeking to create additional income for their family by holding onto property they once lived in. Sometimes, they choose rental real estate as a separate investment vehicle where the rent helps pay the mortgage so that they will eventually have equity in the property at the end of the mortgage term. Sometimes, it is because the owner of the property was under water and instead of selling the property at a loss, they keep it until the market prices recover so they don't lose equity. Other times an owner may have a temporary but longer-term job relocation and they would like to hold onto the property and move back in when their temporary assignment is over.

The COVID-19 pandemic has caused significant economic challenges for tenants and landlords alike. While much attention has appropriately been focused on tenants, it is also true that the impact on some small landlords has been equally tough. While many landlords work hard to provide safe housing and work with their tenants who are experiencing financial challenges, some smaller landlords have little flexibility. When a nonpaying tenant exists, the landlord may not be able to pay the mortgage or other costs associated with maintenance on a property.

For most landlords, recovery of court costs often only serve to mitigate much larger losses that the landlord experiences due to eviction. In addition to lost rent, eviction results in a turnover of a unit that can cost thousands of dollars – particularly for the small landlord renting a single-family property. In addition to costs related to cleaning, painting and maintenance at turnover, many landlords must also pay significant fees on the day of eviction, including: hiring a crew to move potential personal property left in a unit; locksmiths; tow trucks; etc. These eviction requirements differ by county and can be very expensive.

Some of our property managers report to us that their smaller owners are opting out of renting their properties due to the uncertainty of collecting rent combined with a strong sales market that will allow them to recoup some of the equity in their property.

While the REALTORS® would support an increased fee surcharge, we oppose HB 31 which prohibits the collection of these court fees. A judge should be able to determine whether the landlord is entitled to collect the fee or not.

For more information contact bill.castelli@mdrealtor.org, susan.mitchell@mdrealtor.org, or lisa.may@mdrealtor.org

HB 31--AOBA--UNF.pdf

Uploaded by: Francis, Frann

Position: UNF



Bill No: HB 31-- Courts - Surcharges and Payment to Rental Assistance Programs

Committee: Judicial Proceedings

Date: 3/30/2021

Position: Unfavorable

The Apartment and Office Building Association of Metropolitan Washington (AOBA) represents members that own or manage more than 23 million square feet of commercial office space and 133,000 apartment rental units in Montgomery and Prince George's Counties.

House Bill 31 increases the summary ejectment surcharge fee to \$68 per case. The money will be equally deposited into the Maryland Legal Services Fund and directed to rental assistance programs. The bill prohibits passing the surcharge for summary ejectment on to the tenant by court or by the housing provider.

AOBA members appreciate the intent of this bill and strongly supports the portion that will provide a permanent funding mechanism for rental assistance programs that will help prevent evictions for Marylanders. AOBA has long maintained that rental assistance is the most effective way of decreasing evictions for households in need of support. The Association also understands that the Maryland Legal Services Corporation is facing a budget crisis and this legislation will fund legal services for indigent clients.

In Maryland, the total filing fee for a summary ejectment are comprised of many separate fees. By increasing the surcharge to \$40 under § 7-301(c)(2)(i)(1), the total filing fees for summary ejectment cases would become approximately \$47 in Montgomery and Prince George's Counties, \$42 in Howard, Anne Arundel, and Baltimore County, and \$52 in Baltimore City, plus \$5 for every tenant of record. A \$40 surcharge fee would make Maryland's fee on par with the fees established in Virginia (\$46 - \$56 depending on the amount owed and the county) and Delaware (\$45). Several AOBA members also manage property in Virginia and parity with neighboring states is key for companies working across state lines. It is also noteworthy that Maryland, unlike neighboring states, allows residents the right to redeem 3 times a year—4 in Baltimore City. As a result of the system

established to let residents stay in their homes, Maryland housing providers may file a complaint against the same resident three times more often than housing providers operating in neighboring states. Additionally, filing fees are only one part of Maryland's two-part eviction fee system. After the filing fees are paid, housing providers in Maryland must also pay when the sheriff enforces the court's order. The Warrant of Restitution costs \$40 in most of Maryland and \$50 in Baltimore City. In Prince George's and Montgomery Counties, a \$40 surcharge combined with other fees would bring the cost of summary ejectment to \$77+ which makes the total cost of eviction in line with \$71-81 cost in Virginia and greater than the \$45 cost in Delaware.

Finally, AOBA seeks an amendment to strike the provision of the bill that prohibits a housing provider from passing the summary ejectment fee on to a resident. We have not found evidence of any other state that prohibits the filing fee for a summary ejectment case from being passed on to the resident by the housing provider or the court. As such, this would create a barrier to accessing the court system unique to Maryland. In Maryland, housing providers' only legal remedy to seek outstanding rent is the District Court. Further, this provision singles out the rental housing industry by prohibiting the surcharge for summary ejectment from being passed on to the other party in a manner which seems punitive.

Please see AOBA's amendments below:

1. On page 2, line 9, strike "**68**" and insert "**40**"
2. On page 3, line 8, strike "(5) THE SURCHARGE FOR A SUMMARY EJECTMENT CASE UNDER § 8-401 OF THE REAL PROPERTY ARTICLE MAY NOT BE PASSED ON TO A TENANT BY THE COURT OR BY A LANDLORD."
3. On page 4, line 1, strike "**(5) IF ASSESSED UNDER ITEM (1) OF THIS PARAGRAPH, SHALL BE ASSESSED AGAINST A LANDLORD AND MAY NOT BE AWARDED OR ASSIGNED BY THE DISTRICT COURT AS A FEE OR COST AGAINST A RESIDENTIAL TENANT FOR THE FIRST THREE SURCHARGES ASSESSED IN A YEAR.**"
4. On page 5, line 13, strike "**(9) PROVIDES THAT A TENANT IS, OR REQUIRES A TENANT TO AGREE TO BE RESPONSIBLE FOR THE FIRST THREE PAYMENTS OF A FILING SURCHARGE ASSESSED IN A YEAR AGAINST THE LANDLORD BY THE DISTRICT COURT UNDER § 7-301(C)(2)(I)(1) OF THE COURTS ARTICLE.**"
5. On page 7, line 5, strike "**EXCLUDING THE FIRST THREE SURCHARGES ASSESSED IN A YEAR AGAINST THE LANDLORD UNDER § 7-301(C)(2)(I)(1) OF THE COURTS ARTICLE,**"

For these reasons AOBA requests an unfavorable report on HB 31.

For further information contact Ryan Washington, AOBA Government Affairs Manager, at 202-770-7713 or rwashington@aoba-metro.org.

HB 31 - MMHA - Opposition - 21.pdf

Uploaded by: Wiggins, Grason

Position: UNF



House Bill 31

Committee: Judicial Proceedings

Date: March 30, 2021

Position: **Oppose**

This testimony is offered on behalf of the Maryland Multi-Housing Association (MMHA). MMHA is a professional trade association established in 1996, whose members consist of owners and managers of more than 210,000 rental housing homes in over 958 apartment communities. Our members house over 538,000 residents of the State of Maryland. MMHA also represents over 250 associate member companies who supply goods and services to the multi-housing industry.

HB 31 creates a \$68 surcharge that housing providers may not recover for the first three filings in a year. HB 31, like other bills the committee has heard this session, was offered with the intent of pricing housing providers out of access to the civil justice system. Further, when paired with HB 18/SB 154, the bill takes funds from all housing providers that file a failure to pay rent case, makes those funds unrecoverable, and provides the funds to attorneys for the explicit purpose of funding lawsuits against housing providers.

HB 31 is designed and intended to deter housing providers from accessing the civil justice system by making court costs *unrecoverable*. The stated intent of the bill is absolutely antithetical to the concept of justice, and court costs have never been weaponized by the Maryland General Assembly against an industry. Moreover, we are unaware of any state that makes court costs unrecoverable.

I. Affordable Housing

In its current posture, HB 31 exposes housing providers to significant costs per tenant, per year. According to a 2020 Department of Housing and Community Development report, Maryland has an overall deficit of approximately 85,000 affordable and available housing units. Statewide, there are 33 units available for every 100 extremely low-income households. Increasing the price of the filing fee and making that filing fee unrecoverable will increase the price of housing in the state and further exacerbate Maryland's affordable housing shortage.

In an effort to fund attorneys, HB 31 will price more low-income households out of the existing housing market. The right to counsel program is not required to be funded by increased, unrecoverable fees levied against housing providers. In New York City, the program is funded by the mayor's budget; in Cleveland, the program is funded by the city budget and philanthropic sources; in Newark, NJ, the program is funded in part by a contract with the city. There are other options for funding beyond policy changes that will decrease affordable housing stock in the state.

II. Other States and the "American Rule"

MMHA could not find another state in the country that makes court costs unrecoverable. To justify another similar bill, proponents argued that the "American Rule" was the standard in other states. First, the American Rule does not apply to court costs, it applies to attorney fees. Second,

Grason Wiggins, MMHA Senior Manager of Government Affairs, 912.687.5745



even if the American Rule did apply to court costs, the common exception to the rule is a contract, or in the case of housing providers, a lease. Finally, the commonly understood rationale behind the rule is that plaintiffs (here housing providers) should not be deterred from bringing a case in court for fear of costs – the *exact opposite* of the intent behind HB 31.

III. Filing Fee Increase

MMHA is supportive of a reasonable filing fee increase that is *fully* recoverable. As an example, MMHA respectfully requests that the committee review Virginia’s filing fee of [\\$46-\\$56](#) (summons for unlawful detainer) and Delaware’s filing fee of [\\$45](#). Please note that the \$68 surcharge contemplated in HB 31 is not the *total* filing fee. In Baltimore City, the total filing fee would become \$85 plus \$5 for each location, and the filing fee in the rest of the state would become \$75 plus \$5 for each tenant of record. Additionally, housing providers would still be required to pay an additional \$50 for the warrant of restitution in Baltimore, and \$40 for the warrant of restitution in the rest of the state. Thus, HB 31 would increase the total cost *fees* in the eviction process to \$140 in Baltimore City and \$120 in the rest of the state. These costs will make housing less affordable.

IV. Conclusion

MMHA respectfully requests that committee members consider that housing providers have not been immune from this pandemic. At a time when housing providers are experiencing revenue losses of more than 33%, the industry is now confronted with state legislation that would: **(1)** require *two* forms of notice before filing a failure to pay rent action - unlike any other state in the country (HB 52), **(2)** increase the surcharge fee 850% for filing a failure to pay rent action (HB 31); **(3)** render that surcharge fee unrecoverable - unlike any other industry (HB 31); **(4)** utilize that unrecoverable fee to fund lawsuits against housing providers (HB 18); **(5)** require housing providers to provide specific contact information for attorneys to tenants to facilitate the lawsuits (HB 52); and **(6)** establish a rent control provision during “catastrophic health emergencies” without any regard to the already negotiated agreements and ordinances at the local level (HB 1312).

MMHA supports a reasonable increase in the filing fee that is *fully recoverable*, and we are willing to work with the committee on the other aforementioned bills, but we cannot support a bill that is intended to limit housing providers’ access to the civil justice system through unrecoverable court costs. The Maryland General Assembly has not weaponized court costs against any other industry and attempting to price an industry out of access to the judicial system is antithetical to justice. Further, the right to counsel program can be funded through other budgetary mechanisms that will not exacerbate the state’s affordable housing shortage and price low-income households out of the rental market. For these reasons, MMHA respectfully requests an unfavorable report from the committee on HB 31.

V. Amendments

Grason Wiggins, MMHA Senior Manager of Government Affairs, 912.687.5745



AMENDMENT NO. 1

On page 3, line 18, strike “68” and insert “40”

On page 3, line 20, strike “30” and insert “16”

On page 3, line 21, strike “30” and insert “16”

AMENDMENT NO. 2

On page 4, line 1, strike “(5) IF ASSESSED UNDER ITEM (1) OF THIS PARAGRAPH, SHALL BE ASSESSED AGAINST A LANDLORD AND MAY NOT BE AWARDED OR ASSIGNED BY THE DISTRICT COURT AS A FEE OR COST AGAINST A RESIDENTIAL TENANT FOR THE FIRST THREE SURCHARGES ASSESSED IN A YEAR.”

AMENDMENT NO. 3

On page 5, line 13, strike “(9) PROVIDES THAT A TENANT IS, OR REQUIRES A TENANT TO AGREE TO BE RESPONSIBLE FOR THE FIRST THREE PAYMENTS OF A FILING SURCHARGE ASSESSED IN A YEAR AGAINST THE LANDLORD BY THE DISTRICT COURT UNDER § 7-301(C)(2)(I)(1) OF THE COURTS ARTICLE.”

On page 7, line 5, strike “EXCLUDING THE FIRST THREE SURCHARGES ASSESSED IN A YEAR AGAINST THE LANDLORD UNDER § 7-301(C)(2)(I)(1) OF THE COURTS ARTICLE,”